FILED
JUL 17 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 8655

UNITED STATES OF AMERICA, Plaintiff, v. Octavio AVILA Defendant.	Magistrate Case No.: COMPLAINT FOR VIOLATION OF 21 U.S.C. § 952 and 960 Importation of a Controlled Substance (Felony)

The undersigned complainant being duly sworn states:

On or about July 16, 2008, within the Southern District of California, defendant Octavio AVILA did knowingly and intentionally import approximately 54.20 Kilograms (119.24 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

Douglas A. Struckmeyer
Special Agent
U.S. Immigration & Customs Enforcement

SWORN TO, BEFORE ME, AND SUBSCRIBED IN MY PRESENCE THIS 17th DAY OF JULY, 2008.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
Octavio AVILA

STATEMENT OF FACTS

This complaint is based upon the personal observations, investigation and information provided to U.S. Immigration and Customs Enforcement Special Agent Douglas Struckmeyer.

On July 17, 2008, Octavio AVILA entered the United States at the Calexico, California, West Port of Entry. AVILA was the driver and sole occupant of a 1995 Ford Taurus registered in Mexico. Customs and Border Protection Officer (CBPO) E. Pelayo conducted a primary inspection of AVILA and the vehicle. CBPO Pelayo received a negative Customs declaration from AVILA. During the primary inspection, CBPO Pelayo made observations that led him to believe that the gas tank of AVILA's vehicle had been recently removed. Based on his observations, CBPO Pelayo escorted AVILA to the vehicle secondary area for further inspection.

In the vehicle secondary area, CBPO Pelayo requested that Canine Enforcement Officer (CEO) E. Barroso screen the vehicle with his Narcotic Detector Dog (NDD). CEO Barroso screened the vehicle and his NDD alerted inside the vehicle, indicating the presence of the odor of a controlled substance.

After a thorough search of the vehicle, a total of 32 packages were found concealed within the gas tank, dash and rear seat of the vehicle. The packages contained a green leafy substance which field-tested positive for marijuana. The total weight of the packages was 54.20 Kilograms (119.24 pounds).

Special Agent (SA) D. Struckmeyer advised AVILA of his rights per Miranda. AVILA stated he understood his rights and was willing to answer questions without the presence of an attorney.

AVILA stated he was aware that the marijuana was in the vehicle when he entered the United States. He said he was hired to smuggle the marijuana into the United States by a man named Salvador CARRERA. He was supposed to call CARRERA once he entered the United States for further instructions on where to deliver the marijuana. After delivering the marijuana, he was going to be driven back to Mexico, where he was going to be paid $1,000 for smuggling the marijuana into the United States.